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U.S. Application No. 10/720,946 Examiner NELSON Art Unit 3628  
Response to May 18, 2007 Office Action

### **REMARKS**

In response to the Office Action dated May 18, 2007, the Assignee respectfully requests reconsideration based on the above amendments and on the following remarks.

Claims 1-20 are pending in this application, with claims 16-20 being newly presented.

#### **Rejection of Claims 1-5 & 15**

The Office rejected claims 1-5 and 15 under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent Application Publication 2002/0087674 to Guilford, *et al.* A claim, however, is only anticipated when each and every element is found in a single prior art reference. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). *See also* DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8<sup>th</sup> Edition) (hereinafter "M.P.E.P.").

Claims 1-5 and 15 cannot be anticipated by *Guilford*. These claims recite, or incorporate, many features that are not disclosed by *Guilford*. Independent claim 1, for example, recites "*communicating the request for communications service to other service providers*" and "*receiving an availability message from at least one of the other service providers, the availability message describing what routing paths are immediately available and what bandwidth is immediately available along each routing path.*" Support for such features may be found in the as-filed application at paragraphs [0023] and [0024]. Independent claim 1 also recites "*analyzing the availability message to dynamically ascertain a preferred scenario of segmentation, dispersion, and assemblage of electronic data to fulfill the request for communications service.*" Support for such features may be found in the as-filed application at paragraph [0025]. Independent claim 1 is reproduced below, and independent claims 15 and 18 recite similar features.

[c01] A method of providing communications services, comprising:

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receiving a request for communications service, the request for communications service originating from a client communications device and communicated to a service provider of a communications network;

communicating the request for communications service to other service providers;

receiving an availability message from at least one of the other service providers, the availability message describing what routing paths are immediately available and what bandwidth is immediately available along each routing path;

analyzing the availability message to dynamically ascertain a preferred scenario of segmentation, dispersion, and assemblage of electronic data to fulfill the request for communications service; and

billing for the communications service.

*Guilford* cannot anticipate all these features. *Guilford* explains how a wireless device, or service provider, may select from different networks according to a parameter. See U.S. Patent Application Publication 2002/0087674 to Guilford, *et al.* at paragraphs [0007], [0017], and [0023]. Networks may be intelligently selected based on quality of service, cost, traffic load, or roaming agreements. See *id.* at paragraph [0023]. See also *id.* at paragraphs [0028], [0045] through [0047], [0062], and [0063]. *Guilford* further explains how other service providers may submit offers to process a request. See *id.* at paragraphs [0097] and [0103].

*Guilford*, however, fails to disclose or suggest many of the claimed features. *Guilford*, for example, is entirely silent to “receiving an availability message from at least one of the other service providers, the availability message describing what routing paths are immediately available and what bandwidth is immediately available along each routing path.” *Guilford* is also entirely silent to “analyzing the availability message to dynamically ascertain a preferred scenario of segmentation, dispersion, and assemblage of electronic data to fulfill the request for communications service.”

*Guilford*, then, cannot anticipate claims 1-5 and 15. Independent claims 1 and 15 recite many features that are not taught or suggested by *Guilford*. Their respective dependent claims incorporate these same distinguishing features and recite additional features. Claims 1-5 and 15,

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then, cannot be anticipated, so the Office is respectfully requested to remove the § 102 (b) rejection of these claims.

#### **Rejection of Claims 6-14**

The Office also rejected claims 6-14 under 35 U.S.C. § 103 (a) as being obvious over *Guilford*.

Claims 6-14, however, cannot be obvious over *Guilford*. Claims 6-14 depend from independent claim 1. These claims, then, incorporate the same distinguishing features that are discussed above. Moreover, dependent claims 6-14 recite additional, distinguishing features that are not disclosed or suggested by *Guilford*. Dependent claims 6 and 7, for example, recite features for selecting one service provider over another. The Office alleges that these features are "old and well known," but the Office does not specifically take Official Notice. The Office even concedes that *Guilford* does not expressly disclose the features recited by claims 6 and 7. So, because *Guilford* is silent to these features, *Guilford* cannot obviate dependent claims 6 and 7.

Dependent claims 8-14 are, likewise, not obvious. Dependent claims 8-14 depend from independent claim 1 and, thus, incorporate the same distinguishing features that are discussed above. Moreover, dependent claims 8-14 recite additional, distinguishing features that are not disclosed or suggested by *Guilford*. Even though *Guilford* discusses how other service providers may submit offers to process a request (*see id.* at paragraphs [0097] and [0103]), *Guilford* fails to realize that some billing scheme must exist. Yet the Office again concedes that *Guilford* does not expressly disclose the features recited by claims 8-14. So, even though the Office alleges that these features are "old and well known," the Office does not specifically take Official Notice. Moreover, as *Guilford* does not realize that some billing scheme must exist amongst multiple service providers, dependent claims 8-14 cannot be obvious.

Claims 6-14, then, cannot be obvious over *Guilford*. These claims incorporate the same distinguishing features that are recited by independent claim 1. Moreover, dependent claims 6-

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14 recite additional, distinguishing features that are not disclosed or suggested by *Guilford*. The Office, then, is respectfully requested to remove the § 103 (a) rejection of claims 6-14.

**New Claims 16-20**

This response presents new claims 16-20. Claims 16 and 17 depend from independent claim 15. New independent claim 18 recites the same features as independent claims 1 and 15. Dependent claims 19 and 20 depend from independent claim 18.

No fees are due to new claims 16-20. There are three independent claims (1, 15, and 18) and twenty total claims. No excess claim fees, then, are due.

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If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 469-2629 or [scott@scottzimmerman.com](mailto:scott@scottzimmerman.com).

Respectfully submitted,



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